

# Exhibit 402

*United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.*  
*v. Dey, Inc., et al., Civil Action No. 05-11084-PBS*

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support  
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

Reed, Larry - Vol. III

Wardrobe PCs

March 18, 2008

Page 604

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

-----  
IN RE: PHARMACEUTICAL ) MDL NO. 1456  
INDUSTRY AVERAGE WHOLESALE ) CIVIL ACTION  
PRICE LITIGATION ) 01-CV-12257-PBS

THIS DOCUMENT RELATES TO )  
U.S. ex rel. Ven-a-Care of ) Judge Patti B. Saris  
the Florida Keys, Inc. )

v. ) Chief Magistrate  
tt Laboratories, Inc., ) Judge Marianne B  
06-CV-11337-PBS ) Bowler

(captions continue on following pages)

Videotaped deposition of LARRY REED

## Volume III

Washington, D.C.

Tuesday, March 18, 2008

9:00 a.m.

Reed, Larry - Vol. III

Washington, DC

March 18, 2008

Page 691

1           A. Again, I think that we've talked a  
2 little bit about that. I don't recall earlier  
3 periods of time. But most recently I was aware  
4 that their dispensing fees may have been lower  
5 than the cost of dispensing and there may have  
6 been some profit in ingredient cost.

7           Q. And that's not something that a state  
8 is providing to you in writing, correct, so that  
9 you could disapprove that, today?

10          A. I don't remember a plan amendment that  
11 came in that would have said that.

12           MR. TORBORG: Why don't we take our  
13 first break.

14           THE VIDEOGRAPHER: This is the end of  
15 tape 1. Off the record at 10:36.

16           (Recess.)

17           THE VIDEOGRAPHER: This is the  
18 beginning of tape 2 in the deposition of Mr.  
19 Reed. On the record at 10:51.

20 BY MR. TORBORG:

21           Q. Mr. Reed, would it be fair to say that  
22 you can't tell me one way or the other whether

Reed, Larry - Vol. III

Washington, DC

March 18, 2008

Page 692

1 you knew in 1993 that state Medicaid programs  
2 were using excess payments of ingredient costs to  
3 subsidize insufficient dispensing fees?

4 A. It would fair to say that. I don't  
5 recall that memory.

6 Q. You don't recall one way or the other  
7 whether or not you had that knowledge?

8 A. I don't recall. That's correct. I  
9 don't recall.

10 Q. And it's been 15 years since 1993,  
11 correct?

12 A. Correct.

13 Q. Your memory has faded over time, I take  
14 it?

15 A. Yeah.

16 Q. Would you agree that someone within  
17 HCFA was aware that state Medicaid programs were  
18 using excess payments on the ingredient side to  
19 subsidize insufficient dispensing fees?

20 MS. MARTINEZ: Objection, form.

21 A. From the GAO report that you were  
22 showing me, a HCFA official did make that